

## **CO-OPERATION AGREEMENT**

among

**THE WATER INDUSTRY COMMISSION FOR SCOTLAND**, a body corporate established under section 1 of the Water Industry (Scotland) Act 2002 (the "2002 Act") and having its principal office at First Floor, Moray House, Forthside Way, Stirling FK8 1QZ (the "Commission")

**SCOTTISH WATER**, a body corporate established under section 20 of the 2002 Act and having its head office at 6 Castle Drive, Dunfermline, Fife KY11 8GG ("Scottish Water"); and

**THE NATIONAL CONSUMER COUNCIL**, a body corporate established under section 1 of the Consumers, Estate Agents and Redress Act 2007 operating as Consumer Focus (the "Council"), acting through its committee for Scotland ("CFS") having its principal office at Royal Exchange House, 100 Queen Street, Glasgow G1 3DN

### **Whereas**

- (1) The Commission has the function under Part 3 of the 2002 Act of determining maximum amounts of charges for services provided by Scottish Water by such time and in respect of such period (the "Review Period") as the Scottish Ministers may specify (the process by which the Commission discharges this function being known as the "Strategic Review of Charges" or "SRC").
- (2) The Commission is required to exercise this function for the purpose of ensuring that (a) Scottish Water's income from charges, taken together with certain other resources, is not less than sufficient to meet the expenditure it requires for the effective exercise of its core functions (which is taken to be the case where Scottish Water makes such use of its resources that it achieves the objectives set for it by the Scottish Ministers (the "Ministerial Objectives") at the lowest reasonable overall cost); and (b) so far as is consistent with (a), any charges scheme made by Scottish Water gives effect to the statement of policy regarding charges issued by the Scottish Ministers in respect of the Review Period (the "Statement of Policy").
- (3) The Scottish Ministers must, before setting the Ministerial Objectives or issuing the Statement of Policy, consult CFS. The Commission must, before determining maximum amounts of charges, invite representations on a draft of its determination from the Scottish Ministers, Scottish Water and CFS.
- (4) The Commission is expecting to receive a letter from the Minister for Infrastructure and Capital Investment (the "Minister") requesting it to undertake a Strategic Review of Charges in respect of the 2015 - 2020 Review Period (the "SRC 2015-20").
- (5) The Commission, Scottish Water and CFS (together, the "Parties") have held a series of discussions in light of the anticipated request from the Minister and have concluded that they should establish a forum (the "Customer Forum") to play a formal role in facilitating effective customer engagement in the context of the SRC 2015-2020.

**Now it is agreed as follows**

### **1. Definitions and interpretation**

- 1.1 Words and expressions defined in the 2002 Act shall, unless otherwise provided, have the same meaning when used in this Agreement.

## **2. Aims and principles**

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- 2.1 The purpose of the Customer Forum is to play a formal role in the SRC 2015-2020 process by:
- 2.1.1 working with Scottish Water on a programme of quantitative and qualitative research to establish customers' priorities for service level improvement and expectations in terms of the level of charges;
  - 2.1.2 understanding and representing to the Commission and to Scottish Water the priorities and preferences of customers (as a whole) in the SRC 2015-2020 process as identified through the customer research; and
  - 2.1.3 seeking to secure, through its participation in that process, the most appropriate outcome for customers (as a whole) based on those priorities and preferences
- in relation to those matters remitted to it by the Commission from time to time, following consultation with Scottish Water and the Scottish Ministers, and in accordance with the timeline set out in Part 4 of the Schedule (as amended from time to time) (the "Timeline") or such other timetable as may be specified by the Commission following consultation with the Customer Forum.
- 2.2 The Customer Forum may undertake such activities as it considers (having regard to the need to keep within its agreed budget) to be necessary or desirable in order to secure its effective and timely participation in the SRC 2015-2020 process and shall, where appropriate, consult with the industry quality regulators, SEPA and DWQR.
- 2.3 The operational activities of the Customer Forum must be consistent with the governance and remit of CFS as the accountable body. This will not detract from the Customer Forum's independent role with regard to the SRC 2015-2020 process.
- 2.4 While respecting the Customer Forum's independence, the Customer Forum will provide quarterly reports on progress against its workplan to CFS for its information and in accordance with CFS' governance arrangements.
- 2.5 The members of the Customer Forum will be accountable to the Parties for ensuring that they act at all times in a manner consistent with the aims and principles set out above and otherwise in accordance with this Agreement.
- 2.6 The Parties undertake to do all such things as may be necessary or desirable for the purpose of giving effect to this Agreement and shall cooperate in good faith with each other and with the representatives of the Customer Forum with a view to securing the aims and principles set out above.

## **3. Constitution and governance**

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- 3.1 Unless and until a separate legal entity is formed to take on the role of the Customer Forum, the Customer Forum will not be constituted as a separate legal entity and will consist of a panel of 8 ordinary members and a chairman each of whom will be appointed jointly by the Parties.
- 3.2 The procedure and terms governing the appointment of members is set out in Part 1 of the Schedule.
- 3.3 The members of the Customer Forum will be required to act within the terms of clause 2.1 above. The Customer Forum will have discretion as to how to frame the discussions between the engagement committee and Scottish Water but with reference to the views and opinions obtained from the public generally in consumer research. It is not expected to be involved in policy decisions nor is it intended to be a voice for the community generally in relation to matters outwith the purpose outlined in clause 2.1 above.
- 3.4 The accountable body for the Customer Forum is CFS. Therefore, the Customer Forum will not have power to acquire or lease any property, borrow any sums, engage any employee or enter into any legally binding contracts or other arrangements, or undertake any other operational activity that is not consistent with CFS' administrative policies or procedures.
- 3.5 Resources will be provided to the Customer Forum by the Parties, as set out in clause 5.
- 3.6 The Customer Forum shall work with Scottish Water on a programme of quantitative and qualitative research to establish customers' priorities for service level improvement and expectations in terms of the level of charges from step 2 onwards in the Timeline. If,

notwithstanding that research programme, the Customer Forum determines that additional research is required, the Customer Forum shall seek to agree with Scottish Water the scope of the additional research which Scottish Water should undertake but, failing agreement, CFS shall, upon request from the chairman, instruct the additional research and the costs of such research shall be paid from, and within the parameters of, the previously agreed Forum Budget.

- 3.7 No member of the Customer Forum shall incur any third party expenses without having a prior, written delegation from the chairman. All such approved third party expenses shall be subject to CFS finance and procurement rules and reimbursed from the Forum Budget administered by CFS. No member of the Customer Forum shall be entitled to be reimbursed any third party expenses which have not had the prior approval of the chairman or which would exceed the balance of funds within the Forum Budget.

#### **4. Engagement committee**

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- 4.1 The Customer Forum will form a sub-committee of its members to undertake the role of engaging directly with Scottish Water in accordance with step 8c in the Timeline. The engagement committee will be established and will operate in accordance with the provisions of Part 2 of the Schedule.
- 4.2 After considering and discussing the customer research and the scope of the matters remitted to it by the Commission, the Customer Forum will provide the engagement committee with an initial remit for the engagement with Scottish Water. The Customer Forum may amend or expand the remit at any time. In addition, the Customer Forum may give specific directions to the engagement committee which it must seek to have included in the package agreed with Scottish Water.
- 4.3 If the engagement committee agrees a position with Scottish Water which is within the remit given to the engagement committee by the Customer Forum, then the Customer Forum will automatically approve the agreed position.
- 4.4 If the engagement committee is unable to agree a position that falls within the remit given to it by the Customer Forum, it must go back to the Customer Forum for approval. If the Customer Forum agrees a position then the engagement committee must adopt that position in its discussions with Scottish Water.
- 4.5 If agreement is reached with Scottish Water, the Customer Forum and Scottish Water will prepare a joint report to the Commission setting out the agreed terms as envisaged by step 9 in the Timeline.
- 4.6 If agreement cannot be reached with Scottish Water, the Customer Forum and Scottish Water will endeavour to submit a joint report to the Commission setting out the points in issue and reasons for the disagreement, failing which the Customer Forum and Scottish Water shall be required to submit separate reports to the Commission setting out their view of the points in issue and the reasons for disagreement in accordance with step 9 in the timeline.

#### **5. Resources**

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- 5.1 The parties agree that they shall meet the financial liabilities of the Customer Forum and provide additional resources to the Customer Forum as follows:
- 5.1.1 the Commission shall:
- (i) provide the Customer Forum with:
    - (i)(a) an annual budget of £175,000 from the Commissions existing agreed annual levy, to meet the expenses of the Customer Forum (the "Forum Budget"). The Forum Budget shall be paid in two equal instalments each year with the first payment made on the date of this agreement and semi-annually thereafter on the six month anniversary of the date of this Agreement, into the CFS bank account where it will be ring-fenced to be administered in accordance with this Agreement. Any part of the Forum Budget not used, shall be retained in the account and shall be available to the Customer Forum in the following six month period in addition to the budget for that period;

- (i)(b) technical assistance, upon request by the Customer Forum, including any resources necessary to analyse information provided by Scottish Water; and
  - (i)(c) meeting rooms on request by the Customer Forum, at no additional cost to the Forum; and
  - (ii) pay to CFS, an amount not exceeding 20% of the Forum Budget (the "Services Fee") to meet the costs incurred by it in relation to the services to be provided by it to the Customer Forum in accordance with clause 5.1.2 below;
- 5.1.2 CFS shall in return for the payment of the Services Fee:
- (i) provide the Customer Forum with payroll and other banking and accounting functions (including, without limitation, the preparation of monthly management accounts and audited annual accounts);
  - (ii) ensure that such Forum Budget is managed in accordance with the principles of regularity, propriety and value for money observed by CFS in respect of its own affairs;
  - (iii) provide corporate services support in terms of facilities management, information technology (IT), human resources (HR) and senior management; and
  - (iv) provide office accommodation, access to meeting room facilities and general administrative support services.
- 5.1.3 Scottish Water shall:
- (i) provide the Customer Forum with:
    - (i)(a) access to all existing and ongoing customer research in accordance with the agreed research programme;
    - (i)(b) technical assistance upon request by the Customer Forum; and
    - (i)(c) meeting rooms on request by the Customer Forum, at no additional cost to the Customer Forum.
- 5.2 For the avoidance of doubt, direct costs incurred by the Forum shall be covered by the Forum Budget and will include staff costs, programme costs and running costs.
- 5.3 On termination of this Agreement and the disbanding of the Customer Forum, the balance of the Forum Budget remaining after payment of all liabilities properly incurred by the Customer Forum, if any, shall be repaid to the Commission.
- 5.4 Other than the Forum Budget to be contributed annually by the Commission, the Parties shall have no obligation to contribute to the costs or liabilities of the Customer Forum. The liability of the Parties to the members of the Customer Forum shall be limited to the funds representing the balance of the Forum Budget held in the CFS bank account on behalf of the Customer Forum, from time to time.

## **6. Information**

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The Customer Forum shall procure that an audit is undertaken annually and shall provide the Parties with a copy of the results of the audit within 3 months of each anniversary of the date of this Agreement to enable them to be published on the Parties' respective websites if the Parties consider it necessary or appropriate. In addition, the Customer Forum shall provide the Parties promptly with such other information concerning the activities and financial affairs of the Customer Forum as the Parties may reasonably require from time to time to fulfil any statutory obligation to which they are subject.

## **7. Review of terms**

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- 7.1 The Parties agree that it may, in due course, be appropriate to incorporate a company limited by guarantee to take over the role of the Customer Forum. If at any time, the Commission, CFS and Scottish Water agree that incorporation is appropriate, the Parties shall take the necessary steps to incorporate a corporate vehicle with a constitution which broadly reflects the rights and obligations of Customer Forum and the Parties as set out in this Agreement (as amended from time to time).

- 7.2 The Commission and Scottish Water acknowledge and agree that if the CFS considers that it is not able to become a member of the corporate vehicle, they will procure that the corporate vehicle enters into an agreement with the Council substantially in the form of the participation letter set out in Part 3 of the Schedule to ensure the continued involvement of the Council in the SRC 2015-20 process.
- 7.3 The Parties agree to review the terms of this Agreement no later than two years following the date of this Agreement. In addition, the Parties agree to review this Agreement in good time before any party for any reason ceases to exist in order to ensure the continued operation of the Customer Forum.

## **8. Termination**

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- 8.1 Subject to clause 8.2, the Customer Forum shall remain in place for such period as is required to facilitate effective customer engagement in the context of the SRC 2015-2020 process.
- 8.2 Notwithstanding clause 8.1, this Agreement (other than the provisions of clauses 2.4, 5.2, 5.3, 13, 14 and 15) shall terminate and the Customer Forum shall be disbanded upon the later of:
- 8.2.1 the expiry of the period during which Scottish Water may request the Commission to make a reference to the Competition Commission, step 14 in the timeline, in respect of the determination made by it at the conclusion of the SRC 2015-2020 process; or
- 8.2.2 in the event that such a request is made in step 14 in the Timeline, the date upon which the Competition Commission reports to the Commission on the reference made by it.

## **9. Announcements**

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Save as otherwise set out in this Agreement, no announcement, circular, advertisement or other publicity in connection with this Agreement, its subject matter or any ancillary matter shall be made or issued by or on behalf of any Party (save as required by law or any governmental or regulatory organisation) without the prior written consent of the other Parties (such consent not to be unreasonably withheld or delayed).

## **10. Notices**

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- 10.1 Any notice, demand or communication in connection with this Agreement shall be in writing and delivered personally or sent by pre-paid first class post (or airmail if overseas) or by fax to the recipient's address as set out at the beginning of this Agreement or to any other address which the recipient has notified in writing to the sender not less than 7 Business Days before the notice is despatched.
- 10.2 The notice, demand or communication is deemed given:
- 10.2.1 if delivered personally, at the time of delivery to the address provided for in this Agreement;
- 10.2.2 if sent by pre-paid first class post, on the second Business Day after posting it; or
- 10.2.3 if sent by fax, at the time of transmission;
- provided that, if it is delivered personally or sent by fax on a day which is not a Business Day or after 4pm on any Business Day, it shall instead be deemed to have been given or made on the next Business Day.

## **11. Entire Agreement**

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This Agreement and the documents referred to in it, constitute the entire agreement between the parties and supersede and replace any previous agreement, understanding, undertaking or arrangement of any nature between the parties relating to the subject matter of this Agreement, save that nothing in this Agreement shall limit or exclude any liability for fraud.

## **12. Variation**

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- 12.1 Subject to clause 12.2, this Agreement may only be varied by an agreement in writing signed by or on behalf of each party to this Agreement.
- 12.2 If a Party ceases to exist the consent of that Party shall not be required for any variation of this Agreement.

### **13. Legal Effect**

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- 13.1 Nothing contained in this Agreement, and no action taken by the parties pursuant to this Agreement, shall be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. None of the parties has, nor may it represent that it has, any authority to act or make any commitments on the other parties' behalf or otherwise bind the other parties in any way.
- 13.2 Nothing in this Agreement shall be construed as limiting or restricting the ability of any of the Parties to exercise any powers or functions conferred on it by or under any enactment, or to perform any duty (including a duty to exercise discretion) imposed on it in relation to any such power or function.

### **14. Governing Law**

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The formation, existence, construction, performance, validity and all aspects whatsoever of this Agreement or any term of it (including non-contractual disputes or claims) shall be governed by the laws of Scotland.

### **15. Dispute resolution**

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- 15.1 In the event of any dispute arising out of or in relation to this Agreement, each of the Parties shall use all reasonable endeavours to consult and negotiate with each other, in good faith and, recognising their mutual interests, attempt to reach a settlement of the dispute to the satisfaction of all Parties. Within 7 days of a dispute arising the Parties shall convene a meeting between persons nominated by each Party (the "Appointed Persons") to attempt to resolve the dispute. If the Appointed Persons do not reach a settlement within 7 days of their first meeting, the dispute shall be managed in accordance with clause 16 below.
- 15.2 If the Appointed Persons agree upon a resolution of the dispute, they shall sign a statement setting out the terms of the resolution and the Parties shall use procure that the resolution is fully and promptly carried out.

### **16. Expert Determination**

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- 16.1 If the Appointed Persons fail to reach a settlement in accordance with clause 15.1, of any dispute that arises out of or in connection with this Agreement, the Parties shall refer the dispute to an Expert for final and binding determination.
- 16.2 The Expert shall be a Chartered Accountant of not less than 10 years' standing and:
- 16.2.1 shall be agreed by the Parties within 7 days of service of the expert determination notice; or
- 16.2.2 in the absence of agreement by the parties, appointed by the President or appropriate officer from time to time of the Institute of Chartered Accountants.
- 16.3 Upon appointment of the Expert, the referring parties shall provide a notice setting out the subject matter of the dispute and the issues he is required to determine.
- 16.4 The Expert shall in his absolute discretion decide the procedure to be adopted to determine the dispute and the timetable for the same, including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination.
- 16.5 The Parties shall provide (or procure that others provide) the Expert with all such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision, and are each entitled to make submissions to the Expert including oral submissions. Each Party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel as the other party reasonably requires to make its submissions.
- 16.6 The Expert shall have the power to conduct such surveys, tests and investigations as he reasonably believes appropriate or to request further information or submissions from the parties.
- 16.7 The Expert shall make his determination in writing to the parties giving reasons for his determination. In so doing, he shall act as an expert and not as an arbitrator, limiting himself to the issues referred to him and using his professional expertise and experience to make his determination. The provisions of the Arbitration (Scotland) Act 2010 (or any subsequent modification or replacement of that Act) shall not apply. The Expert's determination on the

matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.

- 16.8 The Expert may on his own initiative or at the written request of either party, correct any clerical mistake, error or ambiguity within his determination provided that the initiative is taken or the request is made within 3 days of the notification of his determination to the parties. The Expert shall make his corrections within 3 days of any such request.
- 16.9 The Expert shall have the power to determine liability for the costs of the determination, including his fees and any test, investigations or surveys carried out, but excluding legal or other professional costs incurred by the parties, in such proportions as he sees fit.

IN WITNESS WHEREOF these presents consisting of this and the 6 preceding pages and the Schedule consisting of 4 parts have been subscribed as follows:

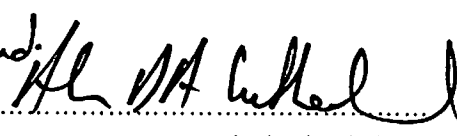
EXECUTED for and on behalf of THE WATER INDUSTRY COMMISSION FOR SCOTLAND

at Edinburgh

on 30/9/11

by Alan David Alexander Sutherland

its authorised signatory in the presence of this witness:



Authorised signatory

Witness MARK NOLAN

Full name MARK NOLAN

Address FORTHGIDE WAY,  
STIRLING

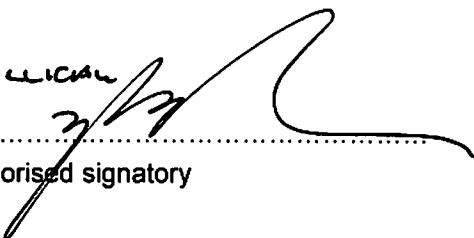
EXECUTED for and on behalf of SCOTTISH WATER

at Dunfermline

on 30/9/11

by John Douglas Nelson

its authorised signatory in the presence of this witness:



Authorised signatory

Witness TRISHA McAULEY

Full name TRISHA McAULEY

Address ROYAL EXCHANGE HOUSE  
100 QUEEN ST, GLASGOW, G1 3DN

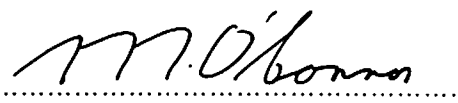
EXECUTED for and on behalf of THE NATIONAL CONSUMER COUNCIL

at London

on 28/9/11

by MIKE O'CONNOR

its authorised signatory in the presence of this witness:



Authorised signatory

Witness JEANETTE HARVEY

Full name JEANETTE HARVEY

Address FLEETBANK HOUSE  
SANSBURY SQ, LONDON, EC4Y 8JX

This is the Schedule referred to in the foregoing Co-operation Agreement among The Water Industry Commission For Scotland, Scottish Water and The National Consumer Council dated 2011

## SCHEDULE

### Part 1

#### Constitution of Forum

#### **1. Appointment of Chair and members**

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- 1.1 Members will be appointed jointly by Scottish Water, the Commission and CFS, but on the basis of the following nominations procedure:
- 1.1.1 Scottish Water, CFS and the Commission shall jointly nominate an independent chairman, having regard to an appropriately open recruitment procedure;
- 1.1.2 CFS shall nominate 5 persons with a strong customer focussed reputation as ordinary members, and
- 1.1.3 the Commission shall seek nominations for:
- (i) two other ordinary members from the two water services providers and/or sewerage services providers with the largest market shares of the water services and/or sewerage services markets (the "Retailers"); and
- (ii) one other ordinary member from the Scottish Council of Development and Industry ("SCDI").
- The persons nominated shall be appointed by the Parties, and there shall be no ability for any Party to veto the appointment of any person so nominated provided that such persons fulfil the criteria set out at paragraph 1.2 below. The members shall hold office in their personal capacities and not as a representative of the person(s) who nominated them.
- 1.2 The Chair and Members must satisfy the following criteria:
- 1.2.1 they must not hold a political office or be standing as a political candidate for election at any level;
- 1.2.2 they must not have any criminal convictions;
- 1.2.3 they must not have been disqualified from acting as a director;
- 1.2.4 they must be prepared to engage constructively in the process outlined in clause 2.1 of the Agreement in a personal capacity without representing any political interests; and
- 1.2.5 they must not be an employee or board member of, or otherwise be engaged by, Scottish Water, CFS or the Commission.
- 1.3 The chairman shall also be the chairman of the engagement committee.
- 1.4 If a chairman is appointed who is already an existing ordinary member, they shall vacate that existing position and the entity which originally nominated the person to be an ordinary member pursuant to paragraph 1.2 above shall be entitled to nominate someone else in his place as an ordinary member.
- 1.5 The ordinary members and the chairman shall be appointed for such period as is required to complete the SRC 2015-2020 process.
- 1.6 In line with CFS' governance arrangements the Chair and members will be subject to an annual appraisal of performance in respect of their Customer Forum duties. For the Chair of the Customer Forum, this appraisal will be held with the Chair of CFS. For the Customer Forum members, this appraisal will be held with the Customer Forum Chair.
- 1.7 Notwithstanding paragraph 1.2 above:
- 1.7.1 the appointment of the chairman and each ordinary member will automatically terminate:
- (i) if the Agreement is terminated; or
- (ii) if a separate legal entity is established to take on the role of the Customer Forum;
- 1.7.2 the appointment of the chairman may be terminated by a unanimous decision of the Parties on the grounds of:
- (i) misconduct;



- (ii) being incapable over a period of four weeks or more of discharging their responsibilities and duties as chairman due to illness or other cause;
  - (iii) insolvency;
  - (iv) failure to fulfil the criteria set out in paragraph 1.2 above; or
  - (v) any action that has brought the Customer Forum or CFS into disrepute.
- 1.7.3 the appointment of an ordinary member nominated by CFS may be terminated at the discretion of the Commission and CFS on the recommendation of the chairman on the grounds of:
- (i) misconduct;
  - (ii) being incapable over a period of four weeks or more of discharging their responsibilities and duties as an ordinary member and/or member of the engagement committee (as the case may be) due to illness or other cause;
  - (iii) insolvency;
  - (iv) failure to fulfil the criteria set out in paragraph 1.2 above; or
  - (v) any action that has brought the Customer Forum or CFS into disrepute.
- and CFS shall be entitled to nominate another ordinary member in their place; and
- 1.7.4 the appointment of an ordinary member (other than one nominated by CFS) may be terminated at the discretion of the Commission on the recommendation of the chairman on the grounds of:
- (i) misconduct;
  - (ii) being incapable over a period of four weeks or more of discharging their responsibilities and duties as an ordinary member and/or member of the engagement committee (as the case may be) due to illness or other cause;
  - (iii) insolvency;
  - (iv) failure to fulfil the criteria set out in paragraph 1.2 above; or
  - (v) any action that has brought the Customer Forum or CFS into disrepute.
- and the party responsible for the original nomination of the ordinary member concerned shall be entitled to nominate another ordinary member in their place.
- 1.8 If the chairman resigns a new chairman will be appointed pursuant to paragraph 1.1.1 and paragraph 1.2 above.
- 1.9 If an ordinary member resigns a new member will be appointed by the entity which originally nominated the person to be an ordinary member pursuant to paragraph 1.2 above.

## **2. Remuneration**

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### **2.1 The chairman shall:**

- 2.1.1 be paid a daily rate as agreed by each of the Parties for services provided, which rate shall be broadly consistent with the Scottish Government's Chair and Members Daily Fee Framework for similar positions in Band 3;
- 2.1.2 be entitled to reimbursement of properly incurred expenses in line with the CFS travel and expenses policy upon submission of the relevant receipts to the CFS; and
- 2.1.3 be required to work an average of up to 90 days per year over his term in office it being recognised that in certain years the chairman may be required to provide fewer or greater than the average number of days.

- 2.2 Ordinary members that are not employees of, board members of, or otherwise related to, or engaged by CFS, the Retailers or SCDI shall:
- 2.2.1 be paid a daily rate as agreed by each of the Parties for services provided, which rate shall be broadly in line with the Scottish Government's Chair and Members Daily Fee Framework for similar positions in Band 3; and
  - 2.2.2 be entitled to reimbursement of properly incurred expenses, which have been approved in advance by the chairman, in line with the CFS travel and expenses policy upon submission of the relevant receipts to the CFS.

### **3. Meetings**

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- 3.1 The Customer Forum shall be entitled to decide how to regulate its affairs, including participating in meetings by telephone or video conference, but will be required to meet in person not less than once every quarter.
- 3.2 On request, CFS, Scottish Water and/or the Commission will make available an appropriate meeting room for the Customer Forum meetings.
- 3.3 Unless otherwise agreed by all members of the Customer Forum all members must be given not less than 14 days notice of any meeting and the notice must include details of the business to be discussed at that meeting
- 3.4 All members of the Customer Forum will be entitled to receive copies of the minutes of each meeting and the papers tabled at each meeting.
- 3.5 Any matter which could be determined at a meeting of the Customer Forum, may be validly determined if approval of the matter is given in writing (including by email or other form of electronic communication) by the percentage of members that would have been required to approve the matter had it been determined at a meeting.
- 3.6 Members of the Customer Forum will be required to keep any information which they obtain or receive as a result of their participation in the Customer Forum and the content of all minutes and all such other papers together with the terms of the remit given to the engagement committee and the discussions leading to the agreement of that remit, confidential and will not be entitled to pass any such information to the person who appointed them without prior approval of the chairman. A breach of this restriction will entitle the defaulter to be removed from the Customer Forum.
- 3.7 Subject to paragraph 3.8, the chairman will ensure that copies of all minutes and any associated papers shall be delivered to each of the Parties to enable them to be published on their respective websites not later than 3 months after the date of such minutes.
- 3.8 The obligation to deliver copies of minutes and associated papers within three months of the date of the relevant minutes shall not apply during the period in which the engagement committee is in active engagement with Scottish Water and all minutes and papers relating to that period shall instead be delivered to the Parties as soon as reasonably practicable after the later of (i) expiry of the period during which Scottish Water may request the Commission to make a reference to the Competition Commission in respect of the determination made by it at the conclusion of the SRC 2015-2020 process; and (ii) in the event that such a request is made, the date upon which the Competition Commission reports to the Commission on the reference made by it.

### **4. Quorum**

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The quorum for meetings of the Customer Forum shall be five (unless fewer than five members have been appointed in which case all of the members shall be required for a quorum) and must, include the chairman and at least one member nominated by CFS and one member nominated by either the Retailers or SCDI, provided that if at any meeting a quorum is not present it will be adjourned to the same time and place 7 days later, and if at the adjourned meeting a quorum is still not present it will be adjourned again to the same time and place 7 days later at which time those members in attendance will constitute a quorum.

### **5. Voting**

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- 5.1 Members will have one vote each at Customer Forum meetings.
- 5.2 Decisions of the Customer Forum will require the approval of at least 75% of the Customer Forum members present at the meeting.

**5.3 The chairman shall have a casting vote in the event of deadlock.**

**SCHEDULE****Part 2****Engagement committee**

1. The engagement committee will have a minimum of two and maximum of three members, each of whom must be a Forum member, one of whom must be the chairman, one of whom must have been nominated by CFS pursuant to paragraph 1.1.2 of Part 1 of the Schedule and one of whom must have been nominated by either the Retailers or SCDI pursuant to paragraph 1.1.2 of Part 1 of the Schedule. The Customer Forum shall take steps to procure that all three members are appointed to the engagement committee as soon as possible after the date of this Agreement.
2. The initial member of the engagement committee shall be such person as is appointed as the initial chairman of the Customer Forum and the chairman shall select the remaining members, which selection shall then require the approval 75% of the members of the Customer Forum.
3. The members of the engagement committee (other than the chairman) may be changed at any time by the Customer Forum in accordance with the procedures in paragraph 2 above on the chairman giving not less than three months written notice of the proposed changes to Scottish Water (or such lesser period as Scottish Water may agree from time to time).
4. Notwithstanding the provisions of paragraphs 1 and 3 above, if at any time the engagement committee has less than three members, the engagement committee shall be entitled to continue to engage with Scottish Water for a period of two weeks pending the appointment of additional committee members. The engagement committee shall not be entitled to engage with Scottish Water at the end of that two week period if additional members have not been appointed by that time, until such time as an additional member is so appointed. No notice shall require to be given to Scottish Water of the appointment of any such additional committee members, whose appointment shall be effective immediately upon approval being given by the members of the Customer Forum in accordance with paragraph 2 above.
5. Any member of the engagement committee who ceases to be a member of the Customer Forum for any reason shall automatically cease to be a member of the engagement committee.
6. Decisions of the engagement committee will require unanimity, with each member of the committee having one vote.

**SCHEDULE**  
**Part 3**  
**CFS Participation Letter**

*To be inserted*

**SCHEDULE****Part 4****Timeline for SRC 2015-20**

<b>Step</b>	<b>When</b>	<b>Description</b>
<b>1</b>	Autumn 2011	<p><b>Scottish Government (SG) issues commissioning letter</b></p> <p>The Scottish Government issues a commissioning letter that initiates the next Strategic Review and sets out the broad arrangements to be followed.</p>
<b>2</b>	Autumn 2011	<p><b>Water Industry Commission for Scotland (WICS), Consumer Focus Scotland (CFS), Scottish Water (SW) and SG establish customer forum</b></p> <p>Once the customer forum is established, customer engagement becomes an integral part of the regulatory framework.</p> <p>The date of September 2011 is dependent on the establishment of the CF in sufficient time for its involvement in decisions on the scope of potential options. These decisions will need to be made by the end of January 2011.</p> <p>Scottish Water and the Customer Forum should engage in the Strategic Review process at an early stage. This will ensure that customers' interests are taken into account by Scottish Water as it develops its strategic vision and business plan.</p> <p>On an ongoing basis Scottish Water and the Customer Forum should agree priorities for customer service improvements and the timetable for these to be delivered.</p> <p>The customer forum is expected to draw on the technical expertise of the quality regulators when required. For example, the customer forum could ask the Scottish Environment Protection Agency (SEPA) and the Drinking Water Quality Regulator (DWQR) for clarification on the policy for improving the quality of the environment and drinking water respectively.</p>

3	31 Jan 2012	<p><b>SG issues principles of charging and objectives</b></p> <p>The draft principles of charging and objectives, based on the statutory elements of Q&amp;S4, will take account of the advice provided to the Scottish Government by SEPA and DWQR.</p> <p>The Scottish Government could use the customer forum as a way to consult customers about the draft principles of charging and objectives for the industry.</p>
4	14 Feb 2012 to 20 Apr 2012	<p><b>WICS provides preliminary view on regulatory inputs</b></p> <p>The regulatory inputs will include, for example, the scope for efficiency, financial strength, prospects for capital and operating expenditure, baseline costs and service.</p> <p>The preliminary view may take the form of general reflections to help guide Scottish Water in developing its strategic vision and business plan.</p> <p>WICS would issue these reflections over a period of time following joint working with Scottish Water.</p>
5	19 Sept 2012	<p><b>SW issues draft 25-year strategic vision</b></p> <p>The vision should include Scottish Water's views on what are acceptable levels of price and service and on the key regulatory inputs.</p> <p>Following discussions with the Customer Forum, Scottish Water would provide an analysis of the priority to be given to improvements in customer service. It would also set out its longer term ambitions for customer service and a transition plan detailing the resources and time necessary to deliver these.</p>
6	12 Dec 2012	<p><b>SG, WICS, customer forum and all other interested stakeholders provide comment on Scottish Water's 25 year strategic vision</b></p> <p>During this period comments would be welcome from all interested stakeholders.</p>

7	30 Oct 2013	<p><b>SW issues final strategic vision and business plan</b></p> <p>The business plan should be presented as Scottish Water's initial view on how best to proceed. It should deal with two aspects:</p> <ul style="list-style-type: none"> <li>- The first should cover baseline levels of service (with an assumption that current level of service and expenditure is a reasonable starting point) and statutory investment requirements.</li> <li>- The second should cover discretionary customer service improvements identified by Scottish Water and the Customer Forum (and based on the engagement process initiated at step 2).</li> </ul> <p>The baseline level of service is the current levels of service at a given point in time. The statutory investment requirements is the outcomes that the Scottish Government decides is necessary to meet European Commission (EC) directives and UK and Scottish legislative requirements<sup>1</sup>. This includes most of the investment needed to improve the environment and the quality of drinking water. Furthermore, the Scottish Government may determine the level of new demand that Scottish Water is to provide for over the period.</p> <p>The discretionary customer service improvements refer to all other investment that has a direct impact on the overall customer experience. This is an area that customers could be expected to influence<sup>2</sup>. There could also be discussions around other, non-investment, areas of the overall customer experience<sup>3</sup>.</p> <p>The business plan should include clear information on the following:</p> <ul style="list-style-type: none"> <li>- The cost of delivering baseline levels of service.</li> <li>- The investment necessary for Scottish Water to deliver its statutory requirements. Scottish Water should also provide confirmation that its proposed approach would deliver the outcomes required by SEPA and the DWQR.</li> <li>- Any benefits to service levels that accrue as a result of investment to satisfy environmental or public health objectives.</li> </ul> <p>Investment area appraisals should be included as an appendix. These should provide the information necessary to enable discussions about any potential alternative, more sustainable or innovative, solutions. Such alternatives could have impacts on the cost, timing and level of compliance; this information will therefore be important in helping the different regulators formulate their responses to individual proposals.</p> <p>The second part of the business plan should set out broad indications of:</p> <ul style="list-style-type: none"> <li>- the level of service that Scottish Water and the Customer Forum think should be being provided to customers;</li> <li>- the gap between that level of service and current performance and improvements resulting from the statutory investment requirements;</li> <li>- the level of resources that Scottish Water and customers think should be spent on discretionary customer service improvements;</li> <li>- the maximum price impact that customers could consider reasonable; and</li> <li>- customers' priorities, as identified through customer research.</li> </ul> <p>The business plan should also highlight any opportunities for innovation or for approaches that will deliver good returns over the longer term.</p>
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<sup>1</sup> For example, this could cover areas such as the water environment, climate change, health and safety, security, public health, highways, etc.

<sup>2</sup> In previous price reviews this has included investment to improve water pressure, improve security of supply to customers, reduce interruptions to supply, reduce the number of sewer flooding incidents (both external and internal), reduce odour at wastewater treatment works, increase capacity at customer contact centres, improve responsiveness to customers, provide water efficiency appliances and advice, protect assets from flooding risk etc.

<sup>3</sup> This could include the customer response strategy, compensation policy, telephone contact hours, the handling of complaints and the provision of information to customers etc.



8a	13 Dec 2013 to 27 Mar 2014	<p><b>WICS issues discussion papers</b></p> <p>These papers would cover both aspects of Scottish Water's business plan and inform the tri (quinti)-partite<sup>4</sup> meetings between WICS, Scottish Water and customers.</p> <p>They would also inform engagement between Scottish Water and the Customer Forum when the scope and priorities of discretionary customer service improvements are discussed and finalised. At this stage it would also be an aim to draw up a prioritised list of additional improvements; these could be included in the determination if there is scope to do so while maintaining charges at levels considered tolerable by the Consumer Forum.</p> <p>WICS would issue these papers over a period of time. In practice, this means that the tri (quinti)-partite meetings and process of customer engagement could start two weeks after the first discussion paper is published and come to an end three weeks after the last discussion paper is published.</p> <p>The tri (quinti)-partite meetings and discussions between Scottish Water and the Customer Forum would run in parallel. They are outlined in more detail below.</p> <p>Scottish Water (and the quality regulators) would have an opportunity to review the discussion papers for factual accuracy before they are distributed to participants in these meetings.</p>
8b	10 Jan 2014	<p><b>WICS, SW, customer forum, SEPA and DWQR start tri (quinti)-partite meetings</b></p> <p><u>The tri (quinti)-partite meetings between WICS, Scottish Water and the Consumer Forum</u></p> <p>Scottish Water, WICS and the Customer Forum would participate in tri-partite meetings covering the first part of Scottish Water's business plan. This is the section covering the cost of delivering baseline levels of service. There would be further meetings on the delivery of the statutory investment requirements that would involve the DWQR and SEPA.</p> <p>The meetings would not seek to question the required outcome but could consider, for example, the scope and efficacy of approach set out in the investment areas appraisals and, in certain circumstances, the timing of delivery.</p> <p>The series of papers provided by WICS will be discussed at the meetings. These papers will indicate the position WICS is minded to adopt at the draft determination. There would be an opportunity for Scottish Water (and the quality regulators) to respond to the discussion papers. The meetings may lead to Scottish Water and the Customer Forum proposing different but mutually satisfactory outcomes regarding levels of service to customers.</p> <p>Proposals to adopt innovative or longer term pay-back options would be discussed and agreed. WICS would comment in a discussion paper on the approach taken by Scottish Water in realising the potential benefits of this change to the regulatory framework.</p> <p>The Scottish Government may choose to be involved in this process of discussion or may consider that it should not participate, given its responsibility for framing the objectives for Scottish Water. This is a matter for the Scottish Government to decide.</p>

<sup>4</sup> The Quality Regulators, the Scottish Environment Protection Agency (SEPA) and Drinking Water Quality Regulator (DWQR), could be involved in discussions to confirm the outputs required and whether the scoping of solutions to deliver these outputs appear reasonable.

<b>8c</b>	10 Jan 2014	<p><b>SW and customer forum start customer engagement</b></p> <p><u>Engagement between Scottish Water and the Customer Forum to finalise the level of discretionary customer service improvements</u></p> <p>Scottish Water and the Customer Forum would participate in discussions on the second part of Scottish Water's business plan. At this stage, Scottish Water and the Customer Forum would finalise the level of resources as set out in Scottish Water's business plan.</p> <p>Scottish Water and the Customer Forum will then provide further definition around the broad areas for customer improvements based on the customer research and the analysis of the gap between the current level of service across the country and the agreed targeted level of service. This should include both parties agreeing on the criteria for prioritisation of investment and the phasing of outcomes.</p> <p>It should be explicitly recognised that there could be scope for changes in the timing or delivery of projects. In this regard, it may, for example, be useful for Scottish Water and the Customer Forum to develop the clear criteria by which expenditure to deal with issues such as odour mitigation, sewer flooding or security of supply should be prioritised. These criteria could then be published on respective websites.</p> <p>The discussion papers would provide information to the Customer Forum in respect of the efficiency of solution proposed by Scottish Water to deliver these improvements. The Customer Forum could ask WICS for further information if required.</p>
<b>9</b>	15 Apr 2014	<p><b>WICS, SW, customer forum, SEPA and DWQR end tri (quinti)-partite meetings and customer engagement</b></p> <p>There would be little flexibility in the deadline for the conclusion of this part of the process. At the end of this process, the Customer Forum and Scottish Water would jointly prepare a document that sets out the areas on which they had agreed and any remaining issues of difference. The Customer Forum and Scottish Water may choose either jointly or separately to set out why they have not been able to agree on a way forward.</p> <p>WICS would take this/these document(s) into consideration in reaching its initial conclusions in its draft determination. The Customer Forum would continue to work with Scottish Water and WICS in monitoring progress in delivering the agreed levels of service.</p>
<b>10</b>	24 June 2014	<p><b>WICS publish draft determination for consultation</b></p> <p>WICS sets out its preliminary view of the price profile consistent with the lowest reasonable overall cost of delivering baseline levels of service, the statutory investment requirements, financially sustainable innovations and initiatives, and discretionary improvements to customer service.</p>

<b>11</b>	16 Sept 2014	<p><b>SG, SW, customer forum and all other interested stakeholder provide representations on the draft determination</b></p> <p>During this period representations would be welcome from all interested stakeholders.</p>
<b>12</b>	30 Sept 2014	<p><b>SG publishes final objectives, principles of charging and technical expression</b></p> <p>Ministers would need to decide whether or not to confirm and include the customer service priorities, as agreed between Scottish Water and the customer forum, in their final objectives and principles of charging for the industry.</p>
<b>13</b>	26 Nov 2014	<p><b>WICS publish final determination</b></p> <p>WICS sets out its final view on the price profile consistent with the lowest reasonable overall cost of delivering baseline levels of service, the statutory investment requirements, financially sustainable innovations and initiatives, and discretionary improvements to customer service</p>
<b>14</b>	26 Jan 2015	<p><b>SW decides whether to accept final determination</b></p> <p>Scottish Water decides whether or not to accept the final determination or to require WICS to refer it to the Competition Commission.</p>
<b>15</b>	27 Mar 2015	<p><b>SW publish delivery plan</b></p>